



VICTIM SUPPORT
PROMOTING RIGHTS & RECOVERY



Victim Support ACT

Standard Operating Procedure – Concerns and complaints regarding non-compliance with Governing Principles.

Background

Section 4 of the *Victims of Crime Act 1994* establishes Governing Principles for the treatment of victims of crime in the ACT. The Governing Principles do not constitute enforceable legal rights; however, they define how agencies involved in the administration of justice should, as far as practicable and appropriate, treat victims of crime.

These principles aim to ensure that victims are being treated with dignity and respect, have a voice and are heard, and are given the opportunity to participate in justice processes that affect them. Failure to treat victims according to the guiding principles increases the risk of retraumatising them or making their recovery more difficult and drawn out.

The procedure for dealing with concerns and complaints in relation to the Governing Principles is set out in section 12 of the Act. Under that section the Victims of Crime Commissioner may try to resolve complaints. However, the Victims of Crime Commissioner does not have the authority to undertake an investigation, and any formal complaints must be referred to a relevant complaints authority such as the Human Rights Commission or the Ombudsman.

Purpose

The purpose of this policy is to provide VS ACT staff with information on the 'Governing Principles' established under the *Victims of Crime Act 1994* and the applicable procedures for managing concerns and complaints in relation to non-compliance with those principles by an agency involved in the administration of justice.

Scope

This SOP applies to the Victims of Crime Commissioner and all VS ACT staff and volunteers, whether they are permanent, temporary or casual who interact with victims of crime.

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The Governing Principles

The Governing Principles are:

1. a victim should be dealt with at all times in a sympathetic, constructive and reassuring manner and with due regard to his or her personal situation, rights and dignity;
2. a victim should be informed at reasonable intervals (generally not exceeding one month) of the progress of police investigations concerning the relevant offence, except where such disclosure might jeopardise the investigation, and, in that case, the victim should be informed accordingly;
3. a victim should be informed of all the charges laid against the accused and of any modification of the charges;
4. a victim should be informed of any decision concerning the accused to accept a plea of guilty to a lesser charge or a guilty plea in return for a recommendation of leniency in sentencing;
5. a victim should be informed of any decision not to proceed with a charge against the accused;
6. where any property of the victim is held by the Crown for the purposes of investigation or evidence - inconvenience to the victim should be minimised and the property returned promptly;
7. a victim should be informed about the trial process and of the rights and responsibilities of witnesses;
8. a victim should be protected from unnecessary contact with the accused and defence witnesses during the course of the trial;
9. a victim's residential address should be withheld unless court directs otherwise;
10. a victim should be relieved from appearing at preliminary hearings or committal proceedings unless the court directs otherwise;
11. a victim should be given an explanation of the outcome of criminal proceedings and of any sentence and its implications;

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12. a victim who is known to have expressed a concern about the need for protection from an offender should be informed of the offender's impending release from custody.

Procedure

Where a client raises a concern or complaint in relation to one of the above principles, the following procedure applies:

1. If the staff member to whom the concern or complaint is made is the Case Manager of the client they must attempt to resolve the issue by liaising directly with the relevant agency involved in the administration of justice.
2. The Case Manager must inform the victim that they have a right under the *Victims of Crime Act 1994* to raise their concern with the Commissioner, and that the Commissioner may (with the victim's consent) require an agency to provide documents and information required to resolve the complaint.
3. If the matter cannot be resolved by the Case Manager and/or the victim wishes to raise the concern with the Commissioner, the Case Manager must refer the matter to the Commissioner.
4. If a victim raises a concern with a staff member who is not their Case Manager, they must refer the issue to either the Case Manager or the Commissioner, as appropriate.
5. If a victim raises a concern with the VS ACT Intake team and they do not register to become a client, the matter should be referred directly to the Commissioner with the victim's consent.
6. If the victim raises a concern with the VS ACT Intake team and they do register as a client, the Intake Team Case Manager will provide the client with information regarding the complaints process and contact details to have the matter resolved. Should the complaint involve a serious matter, this will be directed immediately to the Commissioner.
7. If a victim raises a concern with a volunteer, they must inform the Volunteer Coordinator or Case Manager as appropriate, who will then follow these procedures.
8. The 'Concerns Form' must be used for concerns raised with or referred to the Commissioner.
9. The Commissioner must try to resolve any concern raised with the Commissioner about non-compliance with the Governing Principles by an agency involved in the administration of justice. This may include assistance in making a complaint through the individual agency's complaints process.

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10. An agency must, with the victim's consent, give the Commissioner any document or information that the agency could provide to the victims and which is reasonably required by the Commissioner to resolve a concern.
11. If the Commissioner is unable to resolve the concern, the Commissioner will seek the client's consent to refer the matter to the Human Rights Commission or the Ombudsman.
12. Nothing in this procedure or the *Victims of Crime Act 1994* prevents a victim or the Commissioner from making a formal complaint about a concern, or requires a victim to raise a concern with the Commissioner before making a formal complaint.
13. If the Commissioner receives a formal complaint about non-compliance with the Governing Principles by an agency involved in the administration of justice, the Commissioner must refer the complaint to the Human Rights Commission, the Ombudsman, or any other entity authorised to investigate a complaint relating to the administration of justice.
14. If a complaint is referred to a relevant complaints entity, the Commissioner must give the entity all documents and information held by the Commissioner about the complaint.

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